



General Assembly

February Session, 2000

Amendment

LCO No. 4950

Offered by:

SEN. WILLIAMS, 29th Dist.

SEN. HANDLEY, 4th Dist.

To: Subst. Senate Bill No. 343

File No. 423

Cal. No. 323

"An Act Concerning Permanency Plan Reviews And Hearings."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (c) of section 17a-112 of the general statutes,
4 as amended by section 4 of public act 99-166, is repealed and the
5 following is substituted in lieu thereof:

6 (c) The Superior Court, upon hearing and notice as provided in
7 sections 45a-716 and 45a-717, may grant a petition filed pursuant to
8 this section if it finds by clear and convincing evidence (1) that the
9 Department of Children and Families has made reasonable efforts to
10 locate the parent and to reunify the child with the parent, unless the
11 court finds in this proceeding that the parent is unable or unwilling to
12 benefit from reunification efforts provided such finding is not required
13 if the court has determined at a hearing pursuant to subsection (b) of
14 section 17a-110 or section 17a-111b that such efforts are not
15 appropriate, (2) that termination is in the best interest of the child, and

16 (3) that: (A) The child has been abandoned by the parent in the sense
17 that the parent has failed to maintain a reasonable degree of interest,
18 concern or responsibility as to the welfare of the child; (B) the parent of
19 a child who (1) has been found by the Superior Court to have been
20 neglected or uncared for in a prior proceeding, or (2) is found to be
21 neglected or uncared for and has been in the custody of the
22 commissioner for at least fifteen months and such parent has been
23 provided specific steps to take to facilitate the return of the child to the
24 parent pursuant to section 46b-129, as amended by this act, and has
25 failed to achieve such degree of personal rehabilitation as would
26 encourage the belief that within a reasonable time, considering the age
27 and needs of the child, such parent could assume a responsible
28 position in the life of the child; (C) the child has been denied, by reason
29 of an act or acts of parental commission or omission including, but not
30 limited to, sexual molestation or exploitation, severe physical abuse or
31 a pattern of abuse, the care, guidance or control necessary for such
32 child's physical, educational, moral or emotional well-being.
33 Nonaccidental or inadequately explained serious physical injury to a
34 child shall constitute prima facie evidence of acts of parental
35 commission or omission sufficient for the termination of parental
36 rights; (D) there is no ongoing parent-child relationship, which means
37 the relationship that ordinarily develops as a result of a parent having
38 met on a day to day basis the physical, emotional, moral and
39 educational needs of the child and to allow further time for the
40 establishment or reestablishment of such parent-child relationship
41 would be detrimental to the best interest of the child; (E) the parent of
42 a child under the age of seven years who is neglected or uncared for,
43 has failed, is unable or is unwilling to achieve such degree of personal
44 rehabilitation as would encourage the belief that within a reasonable
45 period of time, considering the age and needs of the child, such parent
46 could assume a responsible position in the life of the child and such
47 parent's parental rights of another child were previously terminated
48 pursuant to a petition filed by the Commissioner of Children and
49 Families; (F) the parent has killed through deliberate, nonaccidental act
50 another child of the parent or has requested, commanded, importuned,

51 attempted, conspired or solicited such killing or has committed an
52 assault, through deliberate, nonaccidental act that resulted in serious
53 bodily injury of another child of the parent; or (G) the parent was
54 convicted as an adult or a delinquent by a court of competent
55 jurisdiction of a sexual assault resulting in the conception of the child,
56 except a conviction for a violation of section 53a-71 or 53a-73a_ [,
57 provided the court may terminate such parent's parental rights to such
58 child at any time after such conviction.]

59 Sec. 2. Subsection (k) of section 46b-129 of the general statutes is
60 repealed and the following is substituted in lieu thereof:

61 [(k) (1) Ten months after the adjudication of neglect of the child or
62 youth or twelve months after the vesting of temporary care and
63 custody pursuant to subsection (b) of this section]

64 (k) (1) Ten months after placement of the child or youth in the care
65 and custody of the commissioner pursuant to a voluntary placement
66 agreement, or removal of a child or youth pursuant to subsection (c) of
67 section 17a-101g, or court order issued by a court of competent
68 jurisdiction, whichever is earlier, the commissioner shall file a motion
69 for review of a permanency plan and to extend or revoke the
70 commitment. Ten months after [a] each permanency plan [has been
71 approved by the court pursuant to this subsection, unless the court has
72 approved placement in long-term foster care with an identified person
73 or an independent living program, or the commissioner has filed a
74 petition for termination of parental rights or motion to transfer
75 guardianship] hearing required under this subsection, the
76 commissioner shall file a motion for review of the permanency plan
77 and to extend or revoke the commitment if the child or youth remains
78 in the custody of the commissioner. A hearing on any such motion
79 shall be held within sixty days of the filing. The court shall provide
80 notice to the child or youth, and [his] the parent or guardian of such
81 child or youth of the time and place of the court hearing [on any such
82 motion] not less than fourteen days prior to such hearing.

83 (2) At such hearing, the court shall determine whether it is
84 appropriate to continue to make reasonable efforts to reunify the child
85 or youth with the parent. In making this determination, the court shall
86 consider the best interests of the child, including the child's need for
87 permanency. If the court finds that further efforts are not appropriate,
88 the commissioner has no duty to make further efforts to reunify the
89 child or youth with the parent. If the court finds that further efforts are
90 appropriate, such efforts shall ensure that the child or youth's health
91 and safety are protected and such efforts shall be specified by the
92 court, including the services to be provided to the parent, what steps
93 the parent may take to address the problem that prevents the child or
94 youth from safely reuniting with the parent and a time period, not
95 longer than six months, for such steps to be accomplished.

96 (3) At [such] each permanency hearing, the court shall approve a
97 permanency plan that is in the best interests of the child or youth and
98 takes into consideration the [child] child's or youth's need for
99 permanency. The child's or youth's health and safety shall be of
100 paramount concern in formulating such plan. Such permanency plan
101 may include the goal of (A) revocation of commitment and placement
102 of the child or youth with the parent or guardian, with or without
103 protective supervision; [(B) placing the child or youth in an
104 independent living program; (C)] (B) transfer of guardianship; [(D)
105 approval of] (C) long-term foster care with [an identified foster parent;
106 (E)] a relative licensed as a foster parent or certified as a relative
107 caregiver; (D) adoption and filing of termination of parental rights; or
108 [(F)] (E) such other [appropriate action] planned permanent living
109 arrangement ordered by the court provided the commissioner has
110 documented a compelling reason why it would not be in the best
111 interests of the child or youth for the permanency plan to include the
112 goals in subparagraphs (A) to (D), inclusive, of this subdivision. Such
113 other planned living arrangement may include, but not be limited to,
114 placement of the child or youth in an independent living program or
115 long-term foster care with an identified foster parent. The court shall
116 extend commitment if extension is in the best interests of the child or

117 youth for a period of twelve months. The court shall revoke
118 commitment if a cause for commitment no longer exists and it is in the
119 best interests of the child or youth.

120 [(4) Commitment shall be revoked by operation of law sixty days
121 after a child or youth is removed from long-term foster care or an
122 independent living program or sixty days after a termination petition
123 is dismissed or a motion to transfer guardianship is denied, unless
124 otherwise ordered by the court.]

125 Sec. 3. Subsection (o) of section 46b-129 of the general statutes is
126 repealed and the following is substituted in lieu thereof:

127 [(o) A foster parent shall have standing for the purposes of this
128 section in Superior Court in matters concerning the placement or
129 revocation of commitment of a foster child living with such parent. A
130 foster parent shall receive notice of any motion to revoke commitment
131 or any hearing on such motion. A foster parent who has cared for a
132 child or youth for not less than six months shall have standing to
133 comment on the best interests of such child or youth in any matter
134 under this section which is brought not more than one year after the
135 last day the foster parent provided such care.]

136 (o) Any foster parent, prospective adoptive parent or a certified
137 relative caregiver, caring for a child or youth shall have the right to
138 notice and an opportunity to be heard on the best interests of such
139 child or youth at any permanency hearing under this section or at a
140 hearing on a motion to revoke commitment. The commissioner shall
141 provide notice to such foster parent, prospective adoptive parent or
142 certified relative caregiver of the time and place of such hearing not
143 less than fourteen days prior to such hearing.

144 Sec. 4. Section 46b-129a of the general statutes is repealed and the
145 following is substituted in lieu thereof:

146 In proceedings in the Superior Court under section 46b-129, as
147 amended by this act: (1) The court may order the child, the parents, the

148 guardian, or other persons accused by a competent witness with
149 abusing the child, to be examined by one or more competent
150 physicians, psychiatrists or psychologists appointed by the court; (2) a
151 child shall be represented by counsel knowledgeable about
152 representing such children who shall be appointed by the court to
153 represent the child [whose fee shall be paid by the parents or guardian,
154 or the estate of the child, or, if such persons are unable to pay, by the
155 court. In all cases in which the court deems it appropriate, the court
156 shall also appoint a person, other than the person appointed to
157 represent the child, as guardian ad litem for such child to speak on
158 behalf of the best interests of the child, which] and to act as guardian
159 ad litem for the child, provided (A) the primary role of any attorney
160 for the child including the attorney who also serves as guardian ad
161 litem, shall be to advocate for the child in accordance with the Rules of
162 Professional Conduct, (B) a separate guardian ad litem shall be
163 appointed to speak on behalf of the best interest of the child if the
164 attorney for the child or the judge determines there is conflict of
165 interest between the stated position or wishes of the child and the
166 interests of the child, and (C) in the event that a separate guardian ad
167 litem is appointed, the person previously serving as both counsel and
168 guardian ad litem for the child shall continue to serve as counsel for
169 the child and a different person shall be appointed as guardian ad
170 litem, unless the court for good cause also appoints a different person
171 as counsel for the child. No person who has served as both counsel and
172 guardian ad litem for a child shall thereafter serve solely as the child's
173 guardian ad litem. The guardian ad litem is not required to be an
174 attorney-at-law but shall be knowledgeable about the needs and
175 protection of children. [and whose fee] The attorney and guardian ad
176 litem's fees, if any, shall be paid by the parents or guardian, or the
177 estate of the child, or, if such persons are unable to pay, by the court;
178 (3) the privilege against the disclosure of communications between
179 husband and wife shall be inapplicable and either may testify as to any
180 relevant matter; and (4) evidence that the child has been abused or has
181 sustained a nonaccidental injury shall constitute prima facie evidence
182 that shall be sufficient to support an adjudication that such child is

183 uncared for or neglected.

184 Sec. 5. Section 46b-141 of the general statutes is repealed and the
185 following is substituted in lieu thereof:

186 (a) Except as otherwise limited by subsection (i) of section 46b-140,
187 commitment of children convicted as delinquent by the Superior Court
188 to the Department of Children and Families shall be for (1) an
189 indeterminate time up to a maximum of eighteen months, or (2) when
190 so convicted for a serious juvenile offense, up to a maximum of four
191 years at the discretion of the court, unless extended as hereinafter
192 provided.

193 (b) The Commissioner of Children and Families may [petition the
194 court] file a motion for an extension of the commitment as provided in
195 subdivision (1) of subsection (a) beyond the eighteen-month period on
196 the grounds that such extension is for the best interest of the child or
197 the community. The court shall give notice to the parent or guardian
198 and to the child at least fourteen days prior to the hearing upon such
199 [petition] motion. The court may, after hearing and upon finding that
200 such extension is in the best interest of the child or the community,
201 continue the commitment for an additional period of not more than
202 eighteen months. Not later than twelve months after a child is
203 committed to the commissioner in accordance with subdivision (1) of
204 subsection (a) of this section the court shall hold a permanency hearing
205 in accordance with subsection (d) of this section. Not more than twelve
206 months after each such hearing, the court shall hold a subsequent
207 permanency hearing if the child remains committed to the
208 commissioner on the date of such subsequent hearing.

209 (c) The [Commissioner of Children and Families shall obtain judicial
210 review of] court shall hold a permanency hearing in accordance with
211 subsection (d) of this section for each child convicted as delinquent for
212 a serious juvenile offense as provided in subdivision (2) of subsection
213 (a) within [eighteen] twelve months of commitment to the Department
214 of Children and Families and every [eighteen] twelve months

215 thereafter. Such [judicial review] hearing may include the submission
216 of a [petition] motion to the court by the commissioner to either (1)
217 modify such commitment, or (2) extend the commitment beyond such
218 four-year period on the grounds that such extension is for the best
219 interest of the child or the community. The court shall give notice to
220 the parent or guardian and to the child at least fourteen days prior to
221 the hearing upon such [petition] motion. The court, after hearing, may
222 modify such commitment or, upon finding that such extension is in the
223 best interest of the child or the community, continue the commitment
224 for an additional period of not more than eighteen months.

225 (d) At all permanency hearings required pursuant to subsections (b)
226 and (c) of this section, the court shall review and approve a
227 permanency plan that is in the best interests of the child and takes into
228 consideration the child's need for permanency. Such permanency plan
229 may include the goal of: (A) Revocation of commitment and placement
230 of the child or youth with the parent or guardian, (B) transfer of
231 guardianship, (C) permanent placement with a relative, (D) adoption,
232 or (E) such other planned permanent living arrangement ordered by
233 the court, provided the Commissioner of Children and Families has
234 documented a compelling reason why it would not be in the best
235 interests of the child for the permanency plan to include the goals in
236 subparagraphs (A) to (D), inclusive, of this subsection. Such other
237 planned permanent living arrangement may include, but not be
238 limited to, placement of the child in an independent living program. At
239 any such hearing, the court shall also determine whether the
240 Commissioner of Children and Families has made reasonable efforts to
241 achieve the permanency plan in effect.

242 [(d)] (e) All other commitments of delinquent, mentally deficient or
243 mentally ill children by the court pursuant to the provisions of section
244 46b-140, may be for an indeterminate time. Commitments may be
245 reopened and terminated at any time by said court, provided the
246 Commissioner of Children and Families shall be given notice of such
247 proposed reopening and a reasonable opportunity to present his views
248 thereon. The parents or guardian of such child may apply not more

249 than twice in any calendar year for such reopening and termination of
250 commitment. Any order of the court made under the provisions of this
251 section shall be deemed a final order for purposes of appeal, except
252 that no bond shall be required nor costs taxed on such appeal.

253 Sec. 6. Section 17a-114 of the general statutes, as amended by section
254 5 of public act 99-166, is repealed and the following is substituted in
255 lieu thereof:

256 (a) No child in the custody of the Commissioner of Children and
257 Families shall be placed with any person, unless such person is
258 licensed by the department for that purpose. Any person licensed by
259 the department to accept placement of a child is deemed to be licensed
260 to accept placement as a foster family or prospective adoptive family.
261 The commissioner shall adopt regulations, in accordance with the
262 provisions of chapter 54, to establish the licensing procedures and
263 standards. [Any criminal records check conducted by the
264 commissioner shall be a criminal records check requested from the
265 State Police Bureau of Identification and the Federal Bureau of
266 Investigation.]

267 (b) The commissioner shall arrange for the fingerprinting of the
268 applicant and all persons sixteen years or older residing in the home of
269 the applicant or licensee. The commissioner shall forward such
270 fingerprints to the State Police Bureau of Identification which shall
271 conduct a state criminal history records check. In the case of each
272 applicant or any person residing with the applicant or licensee who
273 has not resided continuously in this state for the five years
274 immediately preceding the date of application, the criminal history
275 records check shall also include a national criminal history records
276 check conducted by the Federal Bureau of Investigation. The State
277 Police Bureau of Identification shall forward fingerprints to the Federal
278 Bureau of Investigation to conduct the national criminal history
279 records check. The commissioner shall also determine whether the
280 applicant or said persons residing with the applicant or licensee are
281 part of the state child abuse registry established pursuant to section

282 17a-101k.

283 ~~[(b)]~~ (c) Notwithstanding the requirements of subsection (a) of this
284 section, the commissioner may place a child with a relative who is not
285 licensed for a period of up to forty-five days provided a satisfactory
286 home visit is conducted, a basic assessment of the family is completed
287 and such relative attests that such relative and any adult living within
288 the household have not been convicted of a crime or arrested for a
289 felony against a person, for injury or risk of injury to or impairing the
290 morals of a child, or for the possession, use or sale of a controlled
291 substance. Placements with a relative beyond such forty-five-day
292 period shall be subject to certification by the commissioner except that,
293 on or after October 1, 2000, placement of a child with a relative who
294 was not certified prior to October 1, 2000, shall be subject to licensure
295 under subsection (a) of this section. The commissioner shall adopt
296 regulations, in accordance with the provisions of chapter 54, to
297 establish certification procedures and standards for a caretaker who is
298 a relative of such child."